

★ SEP 23 2013 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

-----X
GARY BORETSKY,

Plaintiff,

-against-

NEW YORK CITY TRANSIT AUTHORITY,
HERBERT CARRINGTON, and
KENNETH MUELLER,

Defendants.
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MEMORANDUM & ORDER

11-cv-03191 (ENV) (LB)

VITALIANO, D.J.,

Background

Pro se plaintiff Gary Boretsky¹ commenced this lawsuit on July 5, 2011, alleging employment discrimination in violation of Title VII and the Age Discrimination in Employment Act of 1967 (“ADEA”). Between 2011 and 2013, the parties engaged in motion practice and discovery. On September 5, 2013, shortly after defendants sought permission to move for summary judgment, Boretsky voluntarily dismissed his claim pursuant to Federal Rule of Civil Procedure 41(a), by stipulation signed by Boretsky and counsel for all defendants. (Dkt. No. 53).

On September 20, 2013, Boretsky filed a document with the Court announcing, among other things, that despite having abandoned his case less than three weeks earlier, he now “consider[s] [his] case reopened.” (Dkt. No. 55).

¹ Boretsky was initially represented by counsel but elected to proceed *pro se* in July 2013.

Discussion

Given Boretsky's *pro se* status, the Court considers his filing to be a motion under Rule 60(b) to vacate the stipulation of voluntary dismissal and reopen the case, though he does not specifically reference that rule. *See*. Fed. R. Civ. P. 60(b). Defendants are instructed to proceed as such and file an opposition to Boretsky's motion, if any, by October 23, 2013.

SO ORDERED.

**Dated: Brooklyn, New York
September 23, 2013**

/S/ Judge Eric N. Vitaliano
ERIC N. VITALIANO
United States District Judge